BOMBAY ACT No. V OF 1879.[a]

[a] Bom. V of 1879 has been declared in force in the whole of Sind by Government Notification in the Revenue Department, No. 4956-B, dated the 30th June 1904.

The proceeds of all fees levied under Bom. V of 1879 for permission to remove sand or to quarry are to be credited to the Local Fund constituted by Bom. I of 1884—see s. 44 of the latter Act.

S. 85 and subsection 3 of s. 58 are not in force in the Panch Mahâls—see Act VII of 1885, s. 2.

Ss. 68, 72, 73, 74, 104, para. 2, 112, 117A, 117B, 150, cl. (*b*), and 153 of Bom. V of 1879 do not apply to any village in the district of Ratnágiri or the district of Kolába to which the Khoti Settlement Act, 1880, extends; and ss. 103, 118, 119, 123, 136, 150 and 162 of the Act are subject to modification when applied to any such village—see Bom. I of 1880, ss. 1 and 39.

Ss. 38 to 40, 44, 60 to 67, 76, 82, 85, 116, 117A, 117B, 127 to 134, 136, 163, 216 and 217 (all inclusive) of Bom. V of 1879 do not apply to any estate in the districts of Ahmédabad, Kaira, Broach or Panch Mahâls to which the Gujarát Táluqdárs' Act, 1888, extends; and ss. 3, 46, 54, 79A, 88, 89, 94, 111, 113, 147, 150, 160, 162, 214 of the Act, and the words "occupant," "registered occupant" and "occupancy" throughout the Act, are subject to modification when applied to any such estate—see Bom. VI of 1888, ss. 1 and 33.

(First published, after having received the assent of the Governor-General, in the Bombay Government Gazette on the 17th July, 1879.)

An Act to consolidate and amend the law relating to Revenue-officers, and the Land revenue in the Presidency of Bombay.

Preamble

WHEREAS it is expedient to consolidate and amend the law relating to Revenue-officers, and to the assessment and recovery of Land Revenue, and to other matters connected with the Land Revenue Administration; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short Title

1. [a] (*1*) This Act may be cited as "The Bombay Land Revenue Code, 1878."

Local Extent

[b] (*2*) Save as otherwise provided by Chapter XA, this Act extends to the whole of the Presidency of Bombay, except the City of Bombay, Aden, and the Scheduled District of the Mehwassi Chiefs' villages as defined in the Scheduled Districts Act, 1874.

XIV of 1874.

[c] (*3*) Provided that Chapter III also extends to the City of Bombay, subject to the modification that the expression 'Revenue-officer' means every officer of any rank whatsoever appointed under section 5 or 6 of the Bombay City Land-revenue Act, 1876, and employed in or about the business of the land revenue in the City of Bombay, or of the surveys, assessment, accounts or records connected therewith, instead of as defined in clause (*1*) of section 3 of this Act.

Bom. II of 1876.

[a] Sub-section (*1*) of section 1 was originally the first paragraph of section 1. It was numbered sub-section (*1*) of section 1 by Bom. IV of 1913, s. 4 (*1*).

NOTE.—All sub-titles, printed over sections or groups of sections in this Act, were repealed by Bom. IV of 1913, section 84.

[b] This sub-section was substituted for paragraph 2 of section 1, by Bom. IV of 1913, s. 4 (*2*).

[c] This sub-section was substituted by Bom. IV of 1913, s. 4 (3), for the paragraph 3, added by Bom. I of 1910, First Schedule, Part II, Serial No. 2.

Extension of the Code to Native States :—

G. I. **Akalkote State.**—The provisions of the Code have been made applicable to the Akalkote

State.(G. N. No. 5728, P. D., dated 9th December 1879, published in the B. G. G., Part I., page 966, 1879.)

G. 2. **Jat State.**—The Code has been extended to the Jahangir Territories of the State of Jat as far as its provisions are applicable. (G. N. No. 5730, P. D., dated 9th December 1879, published in the B. G. G., Part I., page 966, 1879.)

Purchase of the Land Revenue Code :—

G. 3. Land Revenue Code is allowed to be purchased from the contingent grant (G. R. No. 1515, dated 22nd February 1905, and 6708, dated 19th August 1905).

2. *Repealed by Bom. IV of 1913, s. 5.*

***3.** [a] In this Act, unless there be something repugnant in the subject or context, — Interpretation clause.

(1) "Revenue-officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land-revenue or of the surveys, assessment, accounts or records connected therewith [b] and for the purposes of sections 25 and 26 includes a village officer appointed or officiating under any of the provisions of the Bombay Hereditary Offices Act or Matádárs Act, 1887 [b]:

[a] As to the local modification of s. 3, see para. 5 of footnote [a] on p. 1, *supra*.

G 1. [b-b] These words were added by Bom. IV of 1905, 1st Sch. They remove the difficulty noticed in G. R. No. 5764, dated 17th September 1900, R. D. of recovering money from village officers in case of defalcation.

G. 2. **Officers ascertaining forest rights—not revenue officers.**—An officer employed in ascertain-

*NOTE.—The clauses in section 3 of the Act were renumbered consecutively by Bom. IV of 1913, s. 6 (K).

ing whether the forest rights in a village belong to the Government or to the Inamdar, is not a revenue officer as defined in Section 3, clause 1 of the Code, and cannot, therefore, legally exercise the powers conferred by Section 189 of the Code for the purpose of any such inquiry. Even were he gazetted an Assistant Collector, the enquiry would not relate to the business of land-revenue, nor could it be held to be an enquiry which an Assistant Collector is "legally empowered" to make. (G. R. No. 4964, dated 20th June 1884.)

G. 3. **District Inspectors of Land Records.**—They should be considered revenue officers. (G. R. No. 1327, dated 25th February 1902.)

J. 1. **Forest officer—not a Revenue officer.**—A forest officer is not a revenue officer and does not become one by being merely placed under a revenue officer for purposes of control. Narayan *vs.* Secretary of State P. J. 317, 1895).

(2) "Survey-officer" means an officer appointed under, or in the manner provided by, section 18 [a]:

(a) Words repealed by Bom. III of 1886 are omitted.

G. 1. **Retired Survey Officers.** A Survey officer retired from Government service and subsequently employed in the survey of Native States under an arrangement between him and those States is not a survey officer within the meaning of Section 3, clause 2, and Section 18 of the Land Revenue Code. (G. R. No. 4523, dated 23rd June 1893.)

(3) [*Definition of "Collector"*]—*Repealed by Bom. IV of 1913, s. 6 (a), as superfluous in view of* s. 3 (11) of the Bombay General clauses Act. 1904.

(4) "Land" includes benefit to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the

earth, and also shares in, or charges on, the revenue or rent of villages or other defined portions of territory:

(5) "estate" means any interest in lands and the aggregate of such interest vested in a person or aggregate of persons capable of holding the same:

(6) "survey-number" means a portion of land of which the area and [a] assessment [a] are separately entered, under an indicative number in the [b] land records [b] [c]:

[a-a] This word was substituted by Bom. IV of 1913, s. 6 (b) for the words "other particulars."

[b-b] These words were substituted by Bom. IV of 1913, s. 6 (b) for the words "survey-records."

[c] Words repealed by Bom. IV of 1913, s. 6 (b) are omitted.

[a] (7) "sub-division of a survey number" means a portion of a survey number of which the area and assessment are separately entered in the land records under an indicative number subordinate to that of the survey number of which it is a portion [a]:

[a-a] This was substituted for the definition of "recognized share of a Survey-number" by Bom. IV, 1913, s. 6 (c).

[a] (8) 'chàvdi' means, in any village in which there is no chàvdi, such place as the Collector may direct shall be deemed to be the chàvdi for the purposes of this Act:

[a] This definition was added by Bom. IV of 1913, s. 6 (d).

(9) "building-site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon:

(10) "boundary-mark" means any erection, whether of earth, stone or other material, and also any hedge, [a] unploughed ridge, or [a] strip of ground, or other object whether natural or artificial, set up, employed or specified by a Survey-officer, or other Revenue-officer having authority in that behalf, in order to designate the boundary of any division of land: —

[a-a] These words were substituted for the original word by Bom. VI of 1901, s. 2.

G. 1. **Unploughed ridge.** The words (viz., "unploughed ridge or") were substituted for the original word "vacant" by Bombay Act VI of 1901, Section 2. They removed the difficulty noticed in G. R. No. 4609, dated 31st May 1892; and now a strip of assessed occupied land may be specified or employed by the Survey Department as a boundary mark and the occupant may be restrained from ploughing such strip.

G 2. **Baroda boundary.** There is no legal defect attaching to the Collector's orders to maintain a vacant strip on the Baroda boundary. When such orders have been given they should stand, and it would be advisable that they should be issued in other districts. (G. R. No. 3527, dated 6th April 1907, R. D.)

[a] (11) "to hold land," or to be a "land holder" or "holder" of land means to be lawfully in possession of land, whether such possession is actual or not:

N. 1. **Holder.** A holder, may mean any person holding land by any right or title whatsoever. It may mean a superior holder, a tenant, or an occupant whether registered or unregistered. In the Code however, it is used with reference to alienated land.

J. 1. **Holder.** The term holder is wide enough to include even a tenant who has entered into

possession under an occupant (L. R. 34 Bombay 686)

[a] (12) "holding" means a portion of land held by a holder;

[a] These definitions were substituted for the original definitions 'holder' or 'landholder' and 'holding' by Bom. IV of 1913, s. 6 (e).

[a] (13) "superior holder" means a landholder entitled to receive rent or land-revenue from other landholders (hereinafter called 'inferior holders'), whether he is accountable or not for such rent or land-revenue, or any part thereof, to Government: provided that where land has been granted free of rent or land-revenue, subject to the right of resumption in certain specified contingencies, by a Jágirdár, Inámdar or other such holder of alienated land whose name is authorizedly entered as such in the land records, such Jágirdár, Inamdár or holder shall, with reference to the grantee, be deemed to be the superior holder of land so granted by him and the grantee shall, with reference to the grantor, be deemed to be the inferior holder of such land and for the purposes of section 8 of the Bombay Local Funds Act, 1869, shall, notwithstanding anything hereinafter contained in the definition of the word "tenant," be deemed to be the tenant of such grantor. Bom. III. of 1869.

[a] This was substituted for the original definitions of "superior holder" and "inferior holder" by Bom. IV of 1913, s. 6 (f). In amending this definition the Select Committee reported as follows:-"We have had under consideration the case of Inamdars, Jagirdars and other holders from Government of alienated lands who have themselves made grants of portions of their lands for the maintenance of cadets and other similar purposes. These grants are made subject to resumption in certain contingencies, such as failure of lineal male heirs, and if they are made free of liability to pay rent or land revenue, the grantors have been held not to be the superior holders of such lands (vide Gordhanlal

vs. Darbar Shri Surajmali, I.L.R. 26 Bom., page 504). As the grantors have a reversionary interest in the land, it is desirable that the grantors should be included within the definition of superior holders."

[a] (14) "tenant" means a lessee, whether holding under an instrument or under an oral agreement, and includes a mortgagee of a tenant's rights with possession: but does not include a lessee holding directly under Government;

[a] (15) "landlord" means a lessor;

[a] These definitions were substituted for the original definition of "tenant" by Bom. IV of 1913, s. 6 (*g*).

[a] (16) "occupant" means a holder in actual possession of unalienated land, other than a tenant: provided that where the holder in actual possession is a tenant, the landlord or superior landlord, as the case may be, shall be deemed to be the occupant;

G. I. Occupants.—Occupants holding land under the terms of survey settlement are persons holding temporary settled land under direct engagement with Government as described in Sch. II No. I (*a*) second clause, Court fees act 1870. (G. R. 634 of 28th January 1888).

[a] (17) "occupancy" means a portion of land held by an occupant;

[a] (18) "to occupy land" means to possess or take possession of land;

[a] (19) "occupation" means possession;

[a] These definitions were substituted for clauses (16), (17) and (18) by Bom. IV of 1913, s. 6 (*h*).

(20) "alienated" means transferred in so far as the rights of Government to payment of the rent or land-revenue are concerned, wholly or partially, to the ownership of any person;

[a] (21) "village" includes a town or city and all the land belonging to a village, town or city;

[a] This definition was substituted for the original clause (20) by Bom. IV of 1913, s. 6 (*i*).

(22) the words "revenue-year" or "year" means the period from, and exclusive of, the thirty-first July of one calendar year until, and inclusive of, the thirty-first July in the next calendar year.

(23) [*Definition of "section."*]—*Repealed by Bom. III of 1886.*

(24) [*Definition of "this chapter."*]—*Repealed by Bom. III of 1886.*

[a] (25) the term 'joint holders,' or 'joint occupants,' means holders or occupants who hold land as co-sharers, whether as co-sharers in a family undivided accordiug to Hindu law or otherwise, and whose shares are not divided by metes and bounds; and where land is held by joint holders or joint occupants, 'holder' or 'occupant', as the case may be, means all of the joint holders or joint occupants;

[a] (26) 'land records' means records maintained under the provisions of, or for the purposes of, this Act;

[a] (27) 'certified copy' or 'certified extract' means a copy or extract, as the case may be, certified in the manner prescribed by section 76 of the Indian Evidence Act, 1872; 1 of 1872.

[a] (28) in Sind the word 'Mukhtyarkar' shall be deemed to be substituted for the word 'Mámlatdar,' wherever it occurs in this Act.

[a] These definitions were added by Bom. IV of 1913, s. 6 (*j*).